

Ecocracy and Rights of Nature: Constitutional Reconstruction of Indonesian Energy Transition Mining

Ekokrasi dan Hak Alam: Rekonstruksi Konstitusional Lanskap Hukum Pertambangan Transisi Energi Indonesia

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Abstract

The global energy transition paradoxically has triggered massive nickel mining operations, severely threatening critical ecological vulnerabilities of small islands in Indonesia. This study aims to reconstruct the conventional anthropocentric Green Constitution paradigm by systematically integrating the Ecocracy doctrine and Rights of Nature. Utilizing a normative-juridical method with conceptual, statutory, and case approaches, this research analyzes various contemporary constitutional shifts. The study findings demonstrate that unregulated nickel extraction fundamentally destroys the ecological carrying capacity of vulnerable archipelagos. Crucially, Constitutional Court Decision Number 35/PUU-XXI/2023 functions as a monumental judicial resolution that firmly and implicitly recognizes nature as an independent legal subject holding absolute protection rights. In conclusion, this historic ruling establishes an erga omnes constitutional mandate for the state to immediately halt all destructive extractive mining operations within small island territories, effectively transforming Indonesia's environmental law landscape from an exploitative framework into a highly progressive, strongly binding, and sovereign environmental ecocracy system.

Abstrak

Transisi energi global secara paradoksal telah memicu operasi pertambangan nikel masif, yang sangat mengancam kerentanan ekologis kritis pulau-pulau kecil di Indonesia. Penelitian ini bertujuan untuk merekonstruksi paradigma Konstitusi Hijau antroposentris konvensional dengan cara secara sistematis mengintegrasikan doktrin Ekokrasi dan Hak Alam. Menggunakan sebuah metode yuridis-normatif dengan pendekatan konseptual, perundang-undangan, dan kasus, riset ini menganalisis berbagai pergeseran konstitusional kontemporer. Hasil temuan studi membuktikan bahwa ekstraksi nikel yang tidak teregulasi secara fundamental menghancurkan daya dukung ekologis kepulauan rentan. Secara krusial, Putusan Mahkamah Konstitusi Nomor 35/PUU-XXI/2023 berfungsi sebagai resolusi yudisial monumental yang tegas serta implisit mengakui alam sebagai entitas subjek hukum mandiri pemegang hak perlindungan absolut. Sebagai kesimpulan, ketetapan historis ini membentuk mandat konstitusional erga omnes bagi negara untuk segera menghentikan seluruh operasi pertambangan ekstraktif destruktif di wilayah pulau-pulau kecil, secara efektif mengubah lanskap hukum lingkungan Indonesia dari sebuah kerangka eksploitatif menjadi sistem ekokrasi lingkungan berdaulat yang sangat progresif dan juga mengikat kuat.



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A. INTRODUCTION

1. Background

The triple planetary crisis defined by climate change, systemic biodiversity loss, and pervasive pollution has brought constitutional and environmental jurisprudence to an unprecedented critical juncture. In the pursuit of a progressive response to the global climate emergency, the transition toward renewable energy has been championed by both international and domestic actors as an absolute, singular remedy. Yet, the legal and regulatory landscape governing this energy transition in Indonesia reveals a profound constitutional paradox, marked by deep inconsistencies that threaten the very survival of foundational ecosystems. Global decarbonization mandates have catalyzed a dramatic surge in the exploitation of critical minerals, notably nickel, which remains indispensable for electric vehicle (EV) battery production. Rather than facilitating the environmental remediation envisioned by international climate accords, the aggressive extraction of these critical resources is systematically dismantling the naturally fragile and highly vulnerable ecosystems of the Indonesian archipelago's small islands.¹ It is precisely at this juncture that the conventionally espoused paradigm of the Green Constitution begins to expose its most fundamental ontological and epistemological limitations. Historically, the framework for environmental protection within the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) specifically codified in Article 28H, Section 1 and Article 33, Section 4 has remained deeply entrenched in a rigid anthropocentric doctrine. Under this traditional constitutional design, the natural environment is relegated exclusively to an instrument of human utility and a mere commodity to subsidize economic expansion, rather than being legally recognized as an autonomous entity possessing an inherent right to exist.²

To dismantle this doctrinal impasse and jurisprudential stagnation, constitutional analysis must undergo a radical pivot toward the discourse of ecocracy and the formal recognition of the Rights of Nature. Functioning as a transformative constitutional paradigm, ecocracy elevates environmental sovereignty to an equal footing with popular sovereignty (democracy) and the rule of law (nomocracy) a shift that inexorably demands

¹ Jaya Barends, "Nickel Miners Dig up Indonesia's Gebe Island despite Indigenous and Legal Opposition," Mongabay, 2025, <https://news.mongabay.com/2025/03/nickel-miners-dig-up-indonesias-gebe-island-despite-indigenous-and-legal-opposition/>.

² Ischika Aprilia Ivana et al., "Green Constitution Dalam Sistem Penyelenggaraan Negara Yang Demokratis Di Indonesia," *Samudera Hukum* 1, no. 2 (2023): 100-113, <https://ojs.umrah.ac.id/index.php/samuderahukum/article/view/5753>.

the recognition of the natural world as an autonomous juridical entity vested with inherent, enforceable rights. While a body of prior scholarship has certainly endeavored to untangle the complex nexus intertwining law, environmental governance, sustainable development, and indigenous rights across diverse analytical spectrums, these existing inquiries consistently leave profound analytical lacunae and substantive legal voids that urgently demand more rigorous scholarly exploration.

Pinilih provides a foundational exploration of the Green Constitution paradigm embedded within the 1945 Constitution, focusing primarily on the constitutional interpretation of the fundamental right to a good and healthy environment. While this scholarship establishes a robust theoretical baseline for the constitutionalization of environmental norms, its philosophical scaffolding remains inexorably tethered to an anthropocentric paradigm. Under such an analysis, environmental rights are exclusively predicated upon human existential imperatives. Consequently, the research fails entirely to engage with the urgent necessity of deconstructing traditional juridical subjectivity to embrace an ecocentric framework through the Rights of Nature doctrine.³ Further advancing this discourse, Insani and Karimullah interrogate the "Justice for Nature" framework. Their work offers a trenchant critique of the chronic regulatory failures in environmental enforcement, attributing these deficiencies to the capture of the policymaking apparatus by myopic economic interests. Yet, while their inquiry makes theoretical inroads into the dimensions of ecological justice, it conspicuously stops short of dissecting the profound constitutional anomaly at the heart of the contemporary energy transition agenda. The analysis fails to address a critical paradox: how the aggressive extraction of critical minerals has perversely metamorphosed into a novel, state-sanctioned vector of environmental destruction.⁴

In a parallel line of inquiry, Loy et al. provide a granular examination of the structural impediments plaguing Indonesia's energy transition. Their analysis rightly underscores the pervasive regulatory incoherence, bureaucratic labyrinths, and the glaring deficit of energy justice within the national policy framework. However, the fundamental vulnerability of this scholarship lies in its myopic, downstream orientation.

³ Sekar Anggun Gading Pinilih, "The Green Constitution Concept in the 1945 Constitution of the Republic of Indonesia," *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 30, no. 1 (February 15, 2018): 200, <https://doi.org/10.22146/jmh.28684>.

⁴ Nur Insani and Suud Sarim Karimullah, "Justice for Nature: Integrating Environmental Concerns into Legal Systems for Adequate Environmental Protection," *Jurnal Hukum Dan Peradilan* 12, no. 1 (March 31, 2023): 129, <https://doi.org/10.25216/jhp.12.1.2023.129-158>.

By anchoring their critique exclusively on the deployment hurdles of renewable infrastructure, the authors remain entirely blind to the destructive realities unfolding at the upstream vertex of the global energy supply chain. Specifically, the study ignores the wholesale proliferation of nickel mining concessions across small island territories—fragile jurisdictions inherently constrained by severely limited ecological carrying capacities.⁵ Marah systematically elucidates the evolving dynamics of indigenous legal protections within the broader architecture of international environmental law. The scholarship casts a critical eye on the profound implementation deficits surrounding the Free, Prior, and Informed Consent (FPIC) principle a structural chasm demonstrably widened by the hegemonic influence of extractive corporations. Notwithstanding its sweeping analytical breadth, this treatise remains firmly tethered to an internationalist vantage point. Consequently, it stops short of domesticating these legal doctrines within Indonesia's unique constitutional jurisprudence, entirely neglecting their contentious intersection with the novel regulatory regimes governing energy-transition mining.⁶ Broadening the jurisprudential lens, Zein et al. examine the heterogeneity of indigenous entities alongside the operational friction of implementing human rights mandates within regional legal architectures. Their inquiry effectively illuminates the substantive vulnerabilities inherent in subnational constitutional safeguards. Nevertheless, the analytical gravity of this research remains securely anchored in the orthodox domain of traditional human rights and the formal validation of indigenous ecological knowledge. The authors exhibit a distinct reluctance to transgress established conceptual boundaries, ultimately failing to breach the ontological demarcation required to interrogate the intrinsic Rights of Nature.⁷

Grounded in the critical appraisal of the aforementioned scholarship, the distinct novelty of this article lies in the systematic amalgamation of Ecocracy theory and the Rights of Nature doctrine. This conceptual fusion is deployed as a critical legal analytical framework to execute rigorous substantive and procedural scrutiny of small-island mining policies amidst the energy transition epoch. Whereas antecedent inquiries have

⁵ Nikolaus Loy et al., "Barriers to Indonesia's Energy Transition," *The Indonesian Journal of Planning and Development* 9, no. 2 (October 31, 2024): 54–65, <https://doi.org/10.14710/ijpd.9.2.54-65>.

⁶ Thomas Sheku Marah, "Legal Protection of Indigenous Peoples Under International Environmental Law," *Indonesian Journal of Law and Justice* 2, no. 4 (May 31, 2025): 18, <https://doi.org/10.47134/ijlj.v2i4.4112>.

⁷ Yahya Ahmad Zein et al., "Indigenous, Diversity, and the Future of Human Rights in Regional Legal Systems," *Journal of Human Rights, Culture and Legal System* 5, no. 2 (August 28, 2025): 581–607, <https://doi.org/10.53955/jhcls.v5i2.573>.

persistently siloed the Green Constitution discourse, renewable energy dilemmas, and indigenous rights into isolated academic compartments, this treatise weaves these disparate threads into a singular, cohesive constitutional master-narrative. Furthermore, the present study empirically and theoretically demonstrates the paradigm shift from an orthodox, anthropocentric Green Constitution toward a radical, equitable framework of Environmental Sovereignty. It achieves this by anchoring the analysis in recent constitutional jurisprudence specifically elevating Constitutional Court Decision No. 35/PUU-XXI/2023 as the supreme judicial justification bearing an *erga omnes* mandate.

Concluding this contextual prologue, a preliminary distillation of the research findings is warranted: the ensuing analysis compellingly substantiates that Decision No. 35/PUU-XXI/2023 has formally midwived the embryonic architecture of an Indonesian ecocracy. The Court has successfully elevated the rationale of ecological survivability for small islands to the status of an imperative constitutional norm. Crucially, this imperative norm exerts a degree of coercive judicial authority capable of nullifying the administrative validity of extractive permitting regimes historically orchestrated by the central government.

2. Research Questions

Flowing directly from the phenomenological context and the exhaustive literature review elucidated above, the central inquiries driving this constitutional research are articulated as a structured discursive sequence.

First, how might the theoretical scaffolding of Indonesia's Green Constitution be rigorously deconstructed and subsequently reimaged to substantively internalize both the doctrine of Ecocracy and the formal juridical recognition of the Rights of Nature?

Second, to what extent does the contemporary empirical landscape of mining law within Indonesia's energy transition agenda actively exploit and ravage the ecological fragility of small islands territories that, under the prevailing state architecture, categorically mandate specialized constitutional safeguards?

Third, by what mechanisms does the Constitutional Court, leveraging its jurisprudential hermeneutics most notably via Decision No. 35/PUU-XXI/2023 transmute into a judicial apparatus for ecocratic enforcement, thereby severing the orthodox chains of anthropocentrism to shield small-island ecosystems from the destructive onslaught of extractive activities?

This triadic formulation of research problems will be systematically addressed

through a rigorously calibrated methodological framework.

3. Research Methods

Methodologically, this inquiry is anchored in a doctrinal legal research framework, operationalized through four distinct analytical tiers.⁸ First, a conceptual approach is deployed to dissect the jurisprudential doctrines of Ecocracy, the Green Constitution, and the Rights of Nature. Second, a statutory approach is implemented to evaluate the hierarchical synchronization of norms enshrined within the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), the Mineral and Coal Mining Law, and the Law on the Management of Coastal Zones and Small Islands. Third, a case approach is utilized to scrutinize the *ratio decidendi* underpinning pivotal constitutional court rulings. Finally, a comparative approach is incorporated to contextualize the application of nature's rights doctrines across foreign jurisdictions, thereby fortifying the domestic constitutional argumentation.⁹

The compilation of primary legal materials is anchored in the supreme constitutional instrument the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) alongside Constitutional Court jurisprudence that has acquired final and binding legal force (*inkracht van gewijsde*). The jurisprudential scrutiny is specifically directed toward a definitive trajectory of rulings: Constitutional Court Decision No. 3/PUU-VIII/2010, Decision No. 35/PUU-X/2012, and, most crucially, Decision No. 35/PUU-XXI/2023. This tripartite selection is highly purposive; these rulings representatively chart the transformative evolution of constitutional adjudication, illustrating a paradigm shift from a commodification-centric environmental protection regime toward the juridical recognition of governance rights rooted in intrinsic ecological sustainability.

Concurrently, secondary legal materials were comprehensively extracted through an exhaustive literature review of contemporary scholarship housed within globally reputable academic databases. This theoretical excavation prioritizes internationally indexed journal articles alongside authoritative texts authored by foremost constitutional law experts. Specifically, the analytical foundation of this inquiry is firmly grounded in canonical literature that explicitly unpacks the definitional contours, constitutional imperatives, and systemic operationalization of "ecocracy" and "environmental

⁸ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2005). Hal, 133-137.

⁹ Antono Adhi Susanto, "Reconstruction of the 1945 Constitution for Strengthening the Legal Framework of Indonesia Environmental Law," *Jurnal Konstitusi* 21, no. 2 (June 1, 2024): 183-202, <https://doi.org/10.31078/jk2122>.

sovereignty" within the broader architecture of the Green Constitution.¹⁰

The analytical processing of the gathered legal corpus is governed by the principles of legal hermeneutics, inextricably synthesized with established methodologies of constitutional interpretation.¹¹ This interpretative process operationalizes a triad of hermeneutic instruments: first, grammatical interpretation is employed to dissect the lexical parameters of environmental terminologies; second, systematic interpretation is applied to interrogate the normative consistency and harmonization across constitutional provisions; and finally, a teleological-sociological approach is utilized to excavate the underlying philosophical intent of the drafters, strictly contextualized against the contemporary empirical realities of the planetary crisis. The entire corpus of gathered data subsequently undergoes rigorous thematic codification, culminating in a prescriptive-evaluative analysis. The ultimate objective is to construct a compelling judicial justification asserting the imperative to adopt the Rights of Nature paradigm serving as a definitive constitutional resolution to the escalating ecological devastation wrought by extractive mining operations within fragile archipelagic territories.

B. DISCUSSION

The architecture of the ensuing analysis and discussion unfolds systematically, strictly adhering to the tripartite sequence of research inquiries delineated in the introductory section. Fundamentally, this discourse embarks by dissecting the theoretical deconstruction of the Green Constitution paradigm charting its necessary evolution toward the conceptual doctrines of Ecocracy and the Rights of Nature. It subsequently maps the destructive empirical friction currently manifesting between the aggressive expansion of energy-transition nickel extraction and the profound ecological fragility of small-island ecosystems. Finally, the inquiry elucidates the innovative constitutional hermeneutics engineered by the Constitutional Court, framing its jurisprudence as the ultimate judicial apparatus necessary for the realization of substantive ecological justice.

¹⁰ Jimly Asshiddiqie, *Green Constitution: Nuansa Hijau Undang-Undang Dasar Negara Republik Indonesia Tahun 1945* (Jakarta: Rajawali Pers, 2016). Hal, 110-115.

¹¹ Sodikin Sodikin, "Gagasan Kedaulatan Lingkungan Dalam Konstitusi Dan Implementasinya Dalam Pelestarian Lingkungan Hidup," *Masalah-Masalah Hukum* 48, no. 3 (July 31, 2019): 294, <https://doi.org/10.14710/mmh.48.3.2019.294-305>.

1. Deconstructing the Orthodox Green Constitution Paradigm: A Fundamental Pivot Toward Ecocracy and the Formal Recognition of the Rights of Nature

Grounded in the theoretical scaffolding excavated throughout the preceding introduction and literature review, it becomes evident that the philosophical underpinnings of Indonesia's environmental governance and natural resource management have historically remained captive to a dominant anthropocentric pendulum. To be sure, the Fourth Amendment to the 1945 Constitution (UUD NRI 1945) successfully infused a distinct "green nuance" into the nation's fundamental legal architecture. Specifically, Article 28H, Section 1 definitively codifies the fundamental right of every individual to enjoy physical and spiritual prosperity, to possess a secure dwelling, and to inhabit a good and healthy environment. Concurrently, Article 33, Section 4 establishes a structural mandate declaring that the national economy must be organized upon the tenets of economic democracy incorporating core principles of mutuality, equitable efficiency, sustainability, and a requisite environmental perspective.¹²

Nevertheless, when interrogated through the lens of critical legal philosophy, these constitutional formulations inherently position humanity as the central orientation of the universe and the sole right-bearer. While Article 33, Section 4 incorporates the phrase 'sustainable and with an environmental perspective,' this phrasing is structurally reduced to a mere supporting adjective for its primary subject: the 'national economy.'¹³ Consequently, the environment is not perceived as an autonomous entity possessing intrinsic value; rather, its status is relegated to a mere "object of state control" to be utilized for the maximum prosperity of the people essentially serving as an instrument for human utility and a commodity to subsidize macroeconomic expansion.

At this critical juncture, the theory of Environmental Sovereignty or Ecocracy, as pioneered by Jimly Asshiddiqie, acquires its theoretical, philosophical, and practical urgency. Fundamentally, this concept dismantles and reconfigures the architecture of modern constitutionalism.¹⁴ Asshiddiqie posits the premise that popular sovereignty, which for centuries has fostered the democratic tradition, and the rule of law (nomocracy), which birthed the concept of the *Rechtsstaat*, categorically necessitate an

¹² Pinilih, "The Green Constitution Concept in the 1945 Constitution of the Republic of Indonesia."

¹³ Susanto, "Reconstruction of the 1945 Constitution for Strengthening the Legal Framework of Indonesia Environmental Law."

¹⁴ Asshiddiqie, *Green Constitution : Nuansa Hijau Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*. Hal, 110-112.

equivalent balancing pillar in the form of environmental sovereignty; this, in turn, facilitates the emergence of a novel constitutional doctrine: Ecocracy. Democracy and nomocracy, when devoid of ecocracy, are destined to produce a mere legalistic framework that permits the exploitation of nature sanctioned by parliamentary majorities as representatives of the people and formal regulations representing positive law.

Delving deeper into this discourse, the implementation of ecocracy necessitates the wholesale adoption of ecological ethics, wherein nature conservation principles must be integrated into the very pulse of strategic state decision-making, encompassing legislative, executive, and judicial domains including administrative and constitutional adjudications. Conceptually, ecocracy represents the latest evolutionary milestone in the progression of global legal philosophy and constitutional politics. Within this framework, nature is no longer relegated to the status of a passive economic commodity. The transformation from a predominantly anthropocentric Green Constitution toward the substantive implementation of ecocracy in positive law mandates the formal adoption of the Rights of Nature doctrine.¹⁵ Such recognition of nature's rights furnishes a formal juridical guarantee that non-human entities ranging from riverine systems and primary wilderness to montane formations and coral reef ecosystems within small-island jurisdictions possess legal personhood. Consequently, these entities are vested with inherent rights to exist, persist, flourish, and regenerate via natural cycles, entirely shielded from the encroachment of human extractive technologies.

Through a global comparative lens, the operationalization of Rights of Nature discourse has proven to be a critical countervailing instrument against the extractive capitalist expansion of multinational corporations. This revolutionary paradigm shift is most notably traced to the 2008 Ecuadorian Constitution, which, for the first time in modern legal history, codified the concept of *Pachamama* (Mother Earth) within its foundational framework. By elevating nature from a mere object of property rights to a *bona fide* subject of fundamental rights, this constitutional innovation established a powerful global precedent. Furthermore, the 2017 progressive legislation in New Zealand, which accorded full legal personhood to the Whanganui River hydrological system following the Māori people's centuries-long struggle, represents a tangible global manifestation of this doctrine. The essence of such international developments provides

¹⁵ Insani and Karimullah, "Justice for Nature: Integrating Environmental Concerns into Legal Systems for Adequate Environmental Protection."

a robust jurisprudential blueprint that warrants replication within the Indonesian judicial system.¹⁶

Domestically in Indonesia, the contemporary agrarian, spatial planning, and mining legal systems largely persist as epistemological residues and legacies of Western colonial regimes. These frameworks perceive natural elements strictly as extractive resources ripe for exhaustive depletion an orientation that ironically and systematically marginalizes the profound cosmological wisdom of Nusantara Adat Law. As comprehensively elaborated within legal decoloniality scholarship, the doctrine of Indigenous Environmental Justice (IEJ) has for centuries maintained that nature is a multidimensional living organism. Within this ontological framework, the natural world is recognized as an entity imbued with its own spirit and autonomous agency, possessing inherent and inalienable rights.¹⁷ In fact, when interpreted through a holistic constitutional lens, the recognition of this IEJ cosmology finds a robust constitutional anchorage within Article 18B, Section 2 of the 1945 Constitution. This specific provision mandates that the state recognize and respect customary law communities along with their traditional rights prerogatives that fundamentally encompass their ancestral and spiritual relationship with the natural environment.¹⁸

Reintegrating the Ecocracy doctrine into this overarching narrative, contemporary international environmental law discourse is progressively, if incrementally, validating the IEJ cosmological perspective. This trend serves as a potent signal that the decolonization of Indonesia's environmental and natural resource governance architecture will only achieve a substantive breakthrough if the state formally recognizes nature as a full legal person standing on equal footing with both human subjects and corporate *rechtsperson* entities. Consequently, such systemic deconstruction represents an imperative prerequisite before interrogating the constitutional anomalies inherent in the lived realities of contemporary mining permitting regimes.

¹⁶ Linda Yanti Sulistiawati, "Halfway There: Indonesia's Adat Law towards Right of Nature Frameworks, Case-Based Reflections from Indonesia, the Philippines and Malaysia," *Law Working Paper* 25, no. 4 (2025): 1–14, <https://law.nus.edu.sg/publications/halfway-there-indonesias-adat-law-towards-right-of-nature-frameworks-case-based-reflections-from-indonesia-the-philippines-and-malaysia/>.

¹⁷ Yahya Ahmad Zein et al., "Indigenous, Diversity, and the Future of Human Rights in Regional Legal Systems."

¹⁸ "Pasal 18B Ayat (2) Undang-Undang Dasar Negara Republik Indonesia Tahun 1945" (1945).

2. Empirical Friction: Energy-Transition Mining Landscapes and Threats to the Ecological Vulnerability of Small Islands

This second segment of the analysis seeks to contextualize the systemic failure of the traditional, anthropocentric environmental law paradigm when confronted by the paradoxical disruptions of the contemporary ecological crisis: the energy transition. Ironically, the mainstream energy shift from fossil fuels toward infrastructure electrification and renewable energy grandly orchestrated within the corridors of global climate diplomacy to "save the planet" has directly precipitated a new epicenter of site-specific environmental degradation. The structural backbone of this green industry is nickel, a critical mineral indispensable for the global manufacturing of electric vehicle (EV) batteries. The vast majority of these immense nickel reserves are sequestered beneath the soil of Indonesian sovereign territory, geopolitically concentrated in the eastern archipelago, a region whose geomorphology is defined by a constellation of inherently fragile small islands.

Within the prevailing discourse of global critical mineral supply chain governance, the paradigm of "Just Transition" has emerged as a central normative aspiration. Nevertheless, Karaosman et al. elucidate a bleak reality: energy transition megaprojects in the Global South remain conceptually framed, financed, and operationalized through highly extractive, neo-colonial capitalist frameworks.¹⁹ Such operationalization, instead of engendering sociological well-being, culminates in the depletion of economic assets and the systematic uprooting of the cultural heritage of local coastal communities, signaling an absolute abandonment of the inherent values of the Rights of Nature. This theoretical assertion resonates with visceral force across the empirical landscape of Indonesia. Energy and mining policy frameworks are frequently engineered by government elites to metamorphose into legalizing instruments for accelerated tropical rainforest deforestation and a rationalizing pretext for heavy-metal contamination within coastal ecosystems ultimately compromising the "critical natural capital" essential to archipelagic survival.

To substantiate these claims through a rigorous, evidence-based framework, the following table synthesizes spatial data depicting the significant escalation of industrial

¹⁹ Hakan Karaosman, Donna Marshall, and Irene Ward, "For the Many Not the Few: Introducing Just Transition for Supply Chain Management," *International Journal of Operations & Production Management* 45, no. 3 (February 18, 2025): 700–732, <https://doi.org/10.1108/IJOPM-07-2023-0587>.

mining expansion across the territorial domains of Indonesia’s small islands. This dataset was aggregated by cross-referencing inventories from independent monitoring agencies with official records from the relevant government ministries.²⁰

Table 1. Dimensions of Spatial Vulnerability Metrics and Mining Concessions in Indonesia’s Small-Island Jurisdiction

Spatial Vulnerability Metrics & Mining Concession Dimensions	Volumetric Quantity Concession Acreage	Ecological Status & Environmental Impact Assessment
Total Spatial Area of Small Islands within Indonesian Territory	7,000,000 Hectares	An area equivalent to 105 times the total landmass of Jakarta; characterized by extreme geographical fragility and a high susceptibility to acute seawater intrusion.
Aggregate Land Concession Control by Corporations	876,000 Hectares	Access to communal living spaces, coastal community-managed zones, and ancestral (<i>ulayat</i>) lands is forcibly and systematically curtailed through corporate privatization of permits.
Exclusive Allocation for Mining Business Licenses (IUP)	245,000 Hectares	Plots are predominantly designated for open-pit mineral exploration and exploitation; heavily dominated by nickel commodities to supply raw materials for the global EV battery supply chain.
Pure Natural Forest Deforestation (Period 2017–2021)	13,100 Hectares	Represents the absolute and permanent loss of primary canopy cover specifically resulting from land-clearing processes for large-scale mining operations within small-island territories.
Extreme Permitting Concentration (Maluku & North Maluku Provinces)	32 Licenses (controlling 118,000 Ha)	Aggressively partitioning and encroaching upon 24 specific small islands; actions that incrementally erode the ecological resilience and spatial security of communities in Eastern Indonesia.
Case Study 1:	1,800 Hectares	Serving as an epicenter of legal dispute;

²⁰ Forest Watch Indonesia, “Pasca Putusan MK, 245K Ha Pulau Kecil Kadung Dikaveling Tambang,” Forest Watch Indonesia, 2024, <https://fwi.or.id/pasca-putusan-mk-pulau-kecil-kadung-dikaveling-tambang/>.

Wawonii (Konawe Regency, Sulawesi)	Island SE	of mining area	the mining permit held by PT Gema Kreasi Perdana (GKP) is situated on an island totaling 70,600 Ha, directly jeopardizing 51,950 Hectares of crucial primary forest cover.
Case Study 2: Deforestation of Kabaena Island (SE Sulawesi)	3,700 Hectares of exploited area		Dense forest massifs and critical water catchment zones have been radically repurposed following the issuance of nickel mining operations from 2001 to the present.
Case Study 3: Land Degradation of Gebe Island (North Maluku)	63 Hectares of forest loss (2022–2023)		Significant loss of primary forest cover within a single calendar year due to the inevitable technical expansion of nickel mining infrastructure. ²¹

The comprehensive table above delineates an empirical reality that confirms the phenomenon of a structural state failure in faithfully operationalizing the constitutional mandate set forth in Article 33, Section 4 of the 1945 Constitution. Grounded in the jurisprudence of ecosystem governance, the expected threshold for ecological carrying capacity on small islands cannot be arbitrarily equated with spatial management paradigms applied to vast continental landmasses (mainlands). The overarching carrying capacity and spatial resilience of a small island are inextricably tethered to the sustainability of surrounding coral reef networks, the delicate dynamics of shallow groundwater systems highly susceptible to saline intrusion, and the mitigative functions of coastal vegetation.

Recalling the doctrinal robustness of the Green Constitution, the state's regulatory paralysis in curbing the multinational invasion of nickel mining exposes a profound "normative schizophrenia" afflicting the positive legal system and its permitting apparatus. This state-level inconsistency is starkly palpable: while simultaneously ratifying international climate treaties and declaring Net Zero Emission targets on the global stage, the government concurrently sponsors the issuance of thousands of Mining Business Licenses (IUPs) that operate, in effect, as the infrastructural extension of a mass ecological ecocide machine. Furthermore, findings by Loy et al. corroborate the glaring absence of substantive energy justice; instead, regulatory complexity and overlapping jurisdictions are deliberately weaponized as lubricating variables to accelerate extractive

²¹ Barends, "Nickel Miners Dig up Indonesia's Gebe Island despite Indigenous and Legal Opposition."

practices under the guise of Indonesia's energy transition.²²

This predicament is exacerbated at the legislative level by the forced administrative recentralization of mining permit issuance, which has been fully reclaimed by the central government through the revision of the Mineral and Coal Mining Law (Law No. 3 of 2020, amending Law No. 4 of 2009). From a constitutional law perspective, this hierarchical centralization transcends mere bureaucratic reconfiguration; it represents a form of legal circumvention (*penyelundupan hukum*) that effectively hollows out the principle of regional autonomy as mandated by Article 18 of the 1945 Constitution. This provision serves as an empirical justification to legitimize the authoritarian appropriation of communal living spaces belonging to indigenous peoples, which, in practice, directly triggers the abandonment of the precautionary principle in environmental protection. Consequently, to resolve the constitutional deadlock within executive and legislative arenas currently held hostage by an energy-transition corporatocracy, a judicial intervention to reinterpret constitutional law through independent courts is an absolute and urgent necessity to ground the doctrines of ecocracy and the Rights of Nature.

3. The Evolutionary Arc of Constitutional Court Jurisprudence: A Formal Apparatus for Enforcing Ecocracy

Entering the final phase of analytical synthesis, contemporary constitutional reality reveals a pervasive legislative void specifically, the absence of statutes that explicitly institutionalize the Rights of Nature as a positive norm. Amidst this impasse, the Constitutional Court of the Republic of Indonesia (MK RI) is impelled to assume a historic mandate through strategic eco-judicial activism that transcends conventional judicial orthodoxies.²³ The Court has transcended its role as a passive custodian of an anthropocentric social contract (the guardian of the constitution), evolving instead into the ultimate guardian of the environment within the constitutional order. This analysis deconstructs the textual and contextual substance of Constitutional Court Decision No. 35/PUU-XXI/2023 a landmark judicial resolution that represents the culmination of the protracted tension between the hegemony of extractive licensing regimes and the ecological imperatives of small-island sustainability.

²² Loy et al., "Barriers to Indonesia's Energy Transition."

²³ Theunis Roux, "Indonesia's Judicial Review Regime in Comparative Perspective," *Constitutional Review* 4, no. 2 (December 31, 2018): 188–221, <https://doi.org/10.31078/consrev422>.

Before arriving at the analytical zenith of the 2023 ruling, it is imperative to reflect on how the Court had already established the milestones for a paradigm shift in environmental law through two pioneering decisions. The first landmark is Constitutional Court Decision No. 3/PUU-VIII/2010. Through this revolutionary judgment, the bench invalidated the Coastal Waters Management Rights (*Hak Pengusahaan Perairan Pesisir* or HP3) regime in its entirety. The HP3 scheme was adjudicated as unconstitutional due to its character as a pure capitalization of marine space, which arbitrarily dispossessed coastal communities of their constitutional and traditional rights to access maritime livelihoods.

The second jurisprudential milestone was etched through Constitutional Court Decision No. 35/PUU-X/2012. Within this landmark ruling, the Court performed a sharp correction of the state's claims to absolute territorial sovereignty by decoupling the nomenclature of "Customary Forest" (*Hutan Adat*) from its long-standing subordination under the classification of "State Forest" (*Hutan Negara*).²⁴ The Court's approach aligns with the discourse of recognition justice as conceptualized by Zein et al., wherein modern legal frameworks are compelled to honor ontological pluralism and the structural autonomy of local customary (*Adat*) legal systems. This recognition fundamentally encompasses the sacred spiritual nexus between indigenous communities and their ancestral domains (*tanah air*).²⁵ Doctrinally, these two seminal rulings have pioneered the erosion of the state's absolute and monolithic sovereignty over the natural world.

The evolution of the ecocracy doctrine within the judicial sphere reached its zenith in Constitutional Court Decision No. 35/PUU-XXI/2023. The anatomy of this litigation stems from a judicial review petition filed by PT Gema Kreasi Perdana (PT GKP), a nickel mining corporation operating on Wawonii Island. The petitioner sought the annulment of Article 23, Section 2 and Article 35, point k of Law No. 27 of 2007, as amended by Law No. 1 of 2014 concerning the Management of Coastal Areas and Small Islands (PWP3K Law). These statutory provisions rigidly mandate an absolute prohibition against any mining activities within small-island territories that have the potential to degrade the ecosystem. The petitioner contended that such a ban compromised investment certainty and constituted a "discriminative policy prejudice" against extractive actors relative to other

²⁴ "Putusan Mahkamah Konstitusi Republik Indonesia Nomor 35/PUU-X/2012 Tentang Pengujian Undang-Undang Nomor 41 Tahun 1999 Tentang Kehutanan" (2012).

²⁵ Yahya Ahmad Zein et al., "Indigenism, Diversity, and the Future of Human Rights in Regional Legal Systems."

industrial sectors.

Deploying a profound judicial analysis anchored in sustainability (pro-natura), the Court rejected the petition in its entirety. Within its ratio decidendi, the Constitutional Court formulated a novel archipelagic spatial doctrine, asserting that the prohibition of mineral exploitation on small islands constitutes a mandatory strict control measure directly mandated by the constitution.²⁶ This absolute restriction is enforced on the basis that intensive nickel mining within a confined geographic territory is classified as a direct anthropogenic threat. Within the lexicon of global environmental jurisprudence, such activities are analogous to the abnormally dangerous activities doctrine, wherein the inherent risk of catastrophic ecological harm remains pervasive regardless of the technical safeguards or "reasonable care" employed by extractive entities.

Furthermore, the bench advanced a scientific rationalization asserting that industrial-scale extraction volumes on landmasses measuring less than 2,000 km² are predictively poised to precipitate a total ecological structural collapse. This phase of degradation potentially reaches a point of no return, thereby rendering the reparative justice doctrine of *restitutio in integrum* the restoration to the original state categorically unattainable within such fragile archipelagic ecosystems.²⁷

Building upon the nexus between the discourse on ecocracy and the aforementioned supreme judicial rulings, Constitutional Court Decision No. 35/PUU-XXI/2023 emerges as the definitive crystallization of the supremacy of Environmental Sovereignty. The Court elevates the sanctity of ecological preservation above the formalistic demands of Legal Sovereignty which is frequently reduced to the mere administrative rubber-stamping of concession permits and transcends the pseudo-populist rhetoric of Popular Sovereignty that invokes job creation as its primary justification. As elucidated by Nurhayati et al., this ruling dogmatically enshrines the survival of the natural world as an imperative fundamental norm of protection.²⁸ Procedural defenses predicated upon formal

²⁶ Iwan Sukamto and Mella Ismelina Farma Rahayu, "Analisis Putusan Mahkamah Konstitusi Nomor 35/PUU-XXI/2023 Perihal Pengujian UU 1/2014 Tentang Perubahan Atas UU 27/2007 Terhadap UUD NRI 1945 Tentang Larangan Penambangan Pada Pulau-Pulau Kecil," *Jurnal Ilmu Pengetahuan Sosial* 12, no. 10 (2025): 4303–10, <https://jurnal.um-tapsel.ac.id/index.php/nusantara/article/view/22537>.

²⁷ Utami Argawati, "Court Rejects Petition on Ban on Mining in Coasts and Isles," MKRI, 2024, https://en.mkri.id/news/details/2024-03-21/Court_Rejects_Petition_on_Ban_on_Mining_in_Coasts_and_Isles.

²⁸ Nurhayati et al., "Civil Liability for Environmental Damage from Mining on Small Islands: PT Gag Nikel Case after Constitutional Court Decision No. 35/PUU-XXI/2023," *Requisitoire Law Enforcement* 17, no. 2 (2026): 183–90, <https://ejournal.cria.or.id/index.php/relae/article/view/372>.

compliance such as the possession of Environmental Impact Assessment (EIA/AMDAL) documents or Mining Business Licenses (IUP) can no longer be weaponized as a justification immunity ground to circumvent strict liability for the ecological degradation of fragile archipelagic territories. In this context, administrative legality does not constitute a safe harbor against the overarching constitutional duty to protect the island's ecological integrity.

Viewed through the lens of comparative constitutionalism, this landmark ruling effectively rebuts the deep-seated skepticism prevalent in international discourse. Prior scholarship by Lebel et al. and Lele et al. has frequently questioned the judicial independence and institutional integrity of courts in Global South nations when confronted by the overwhelming onslaught of industrial pragmatism.²⁹ Nevertheless, the Constitutional Court of the Republic of Indonesia has asserted its agency to intervene in extractive regimes, establishing the sacred intrinsic value of nature as the paramount protective variable. This judicial stance effectively supplants short-term macroeconomic profit-utility calculations with a commitment to long-term ecological preservation.

The Court's fortitude in consolidating environmental sovereignty has established a precedent with *erga omnes* binding force, possessing rigorous formal-legal validity. This ruling engenders an absolute constitutional mandate, compelling both the executive and legislative branches to ensure immediate compliance. Consequently, the State is summoned to rationalize, re-evaluate, and revoke the operational permits of nickel mining corporations that threaten to obliterate the ecological carrying capacity of 245,000 hectares of small-island territories across the Nusantara archipelago.

C. CONCLUSIONS

Indonesia's environmental constitutional law paradigm is currently undergoing a fundamental transformation shifting from a rigid, anthropocentric 'Green Constitution' model toward a progressive system of Ecocracy, catalyzed by the landmark Constitutional Court Decision No. 35/PUU-XXI/2023. This judicial resolution definitively delegitimizes and arrests the destructive momentum of large-scale nickel mining in small-island territories, which have paradoxically been reduced to mere ecological sacrifices to serve global energy transition ambitions. Through this historic decree, the supreme judicial

²⁹ Sharachandra Lele et al., "Values and Knowledges in Decision-Making on Environmentally Disruptive Infrastructure Projects: Insights from Large Dams and Mines," *Current Opinion in Environmental Sustainability* 64, no. 7 (October 2023): 101346, <https://doi.org/10.1016/j.cosust.2023.101346>.

institution has successfully prioritized ecosystemic integrity over corporate economic utility by implicitly recognizing nature as an autonomous legal subject endowed with absolute protective rights under the Rights of Nature doctrine. Consequently, both the executive and legislative branches are now bound by an erga omnes constitutional obligation to immediately revoke extractive licensing instruments within fragile archipelagic landscapes and to reconstruct the state's policy trajectory to fully submit to the supremacy of Environmental Sovereignty.

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